

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Monte S. Leach

20 CV 0939

Write the full name of each plaintiff.

No.

(To be filled out by Clerk's Office)

-against-

"New York City" and on the
"City of New York"

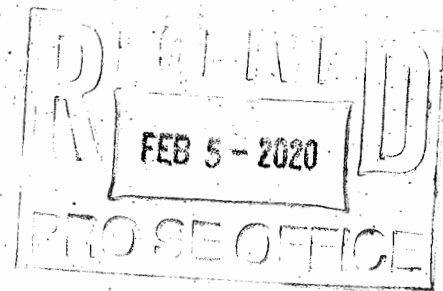
COMPLAINT

(Prisoner)

Do you want a jury trial?

☒ Yes ☐ No

Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.



NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. LEGAL BASIS FOR CLAIM

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

☒ Violation of my federal constitutional rights

☐ Other: _____

II. PLAINTIFF INFORMATION

Each plaintiff must provide the following information. Attach additional pages if necessary.

Monte

S

Leach

First Name

Middle Initial

Last Name

State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

4411901983

Prisoner ID # (if you have previously been in another agency's custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

GRUC - Beacon Bikers Island

Current Place of Detention

09-09 Hazen Street, East Elmhurst, NY

Institutional Address

Queens

NY

11370

County, City

State

Zip Code

III. PRISONER STATUS

Indicate below whether you are a prisoner or other confined person:

☒ Pretrial detainee

☐ Civilly committed detainee

☐ Immigration detainee

☐ Convicted and sentenced prisoner

☐ Other:

Free person - Fighting case from Outside

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1:

The "City of New York"

First Name

Last Name

Shield #

Municipal Bldg. Rm. 530

Current Job Title (or other identifying information)

New York City Comptrollers office

Current Work Address

1 Centre Street

County, City

State

Zip Code

Defendant 2:

N.Y.

N.Y.

10007

First Name

Last Name

Shield #

Current Job Title (or other identifying information)

Current Work Address

County, City

State

Zip Code

Defendant 3:

First Name

Last Name

Shield #

Current Job Title (or other identifying information)

Current Work Address

County, City

State

Zip Code

Defendant 4:

First Name

Last Name

Shield #

Current Job Title (or other identifying information)

Current Work Address

County, City

State

Zip Code

①

"The Facts:"

- ① Arrest Date: 11/12/15
- ② Release Date: 5/16/17
- ③ Total Jail Time: 16 months Reason: Unable to post Bail or Bond.
- ④ Arrest #: Q15661191 L
- ⑤ On said date: 11/12/15 somewhere between the hrs. of 9:45 & 10:00 p.m. This plaintiff, Monte S. Leach was attacked by the person known as "John Musto" in front of a grocery store between 49th & 50th St and Vernon Jackson Ave. in Long Island City Queens.
- ⑥ Upon getting attacked, I the plaintiff: "Monte S. Leach" defends myself, thus getting into a street brawl with my attacker: "John Musto."
- ⑦ Because of my actions brought on by this unprovoked and unwarranted assault and attack upon my person, by the said person: "John Musto". I fight off this such assault & attack causing the said person: "John Musto" minor physical damage to his physical person.
- ⑧ The plaintiff in this case: I "Monte S. Leach" am also caused "minor to severe" physical damage upon my own physical person, brought on by the relentless attacks of the said: "John Musto."
- ⑨ Making matters worse, I "Monte S. Leach" was fresh out of surgery, (only three months prior to the date 11/12/15) mending from a repaired torn (ACL) ligament in my right knee &

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leg, with multiple injuries to my upper and lower lumbar (back) whereas the extent of my injuries medically determined for those particular areas of my physical person, consisted of multiple herniated discs and pinched nerves, running up and down my back & spine from my upper neck, neck & shoulders all the way down to the extreme lower lumbar back.

(10) These injuries ~~were~~ sustained from me being a victim of a hit & run car accident as I was hit by a car that speed off as I was crossing the same street between 49th & 50th St. and Vernon Jackson Ave, coming from the same grocery store that the assault and attack took place in front of, not long after such hit & run accident. (Estimated total recovery time with physical therapy: Approximately about 1 to 3 years)

(11) Due to the severity of the injuries sustained from this prior hit & run car accident, I was stricken with having to wear a specialized leg brace, which I was wearing on 11/12/15 the date of such assault & attack upon my physical person, by the person such as said: "John Musta." I Monroe S. Leach the plaintiff of this such case, was also prescribed crutches and a walking cane, so as to move around with greater efficiency. (The walking cane of which I was sporting at the time of such assault and attack upon my physical person, by the said person: "John Musta." on the night of 11/12/15.)

(3)

(12) After the Altercation and Struggle with the said "John Musto" I walk into the nearby grocery store. This Grocery stores name "E & I Grocery". I "Morbe S. Least ask the Owners/Workers of such said grocery store (who I happen to know a few of them from living in that area at the time, as well as patronizing their grocery store quite frequently throughout the years that I lived in that area) to call the police because I have just been assaulted and attacked and that the person who committed such crime against my person, was still outside of the store and was menacing me by continuously running up behind me pushing and shoving ~~me~~ me from behind, nearly causing me to slip and fall upon the ground ~~once~~ again. (During the initial assault/attack this "John Musto" person cause me to drop my walking cane, therefore causing me to lose balance so I grabbed him as I was falling and we both fell hitting the ground quite hard!)

(13) The Police arrive shortly arrived on foot, being the 108th precinct is literally only two blocks up and around the corner on 50th and Vernon Jackson Ave. L.I.C. Queens. An officer: "John Doe" badge #. Unknown at this time. Enters the said "E & I grocery store and asked me what happened?

(14) I tell the officer the facts (as mentioned) that I had accidentally bumped into the said "John Musto" person as I was walking down the block, going in the

④

direction of the precinct. There was a crowd of people coming from out of the number ⑦ train station on Vernon Jackson walking in my direction and that this person who assaulted and attacked me "John Musto" was a person amid such crowd. As I was apologizing for accidentally bumping into this person "John Musto" sighting that I was with leg brace that was worn on the exterior of my clothing, so which could be clearly seen day and night and sporting a walking cane, I was maneuvering as best I could considering the size of the street and the size of the crowd, not to bump into anyone. As I was apologizing this person "John Musto" jumped in my face and accused me of spitting at him. I then proceeded to kindly begin to tell this "John Musto" person that if he somehow felt that I had spat at him in any kind of way, that he was mistaken and that somehow some minor spittle must have accidentally flew out of my mouth as I had said pardon me, when I accidentally bumped into his person. At that moment that person known as "John Musto" grabbed me causing me to drop my cane, then began kneeing me in the groin area and punching me about various places upon my physical person including my face. Though stricken with various injuries from an earlier said hit and run accident, I Monte S. Leach the plaintiff in this matter, was able to fight off this "John Musto's" attack & Assault and finally get inside the said "E & I" grocery store and get the owners/workers to call the police.

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(15) At that time, I also told the police officer: "John Doe" badge # Unknown at this time. That wanted to have the person who attacked and assaulted arrested and charge with assault.

(16) This officer "John Doe" badge # Unknown at this time, escorts me outside the "Ed I" grocery store. There is another officer speaking with the said "John Musto".

(17) Officer "John Doe" who escorted me outside of the "Ed I" store walks over to where the said "John Musto" and another officer were standing. A distance of about 6 to 12 ft from where I was standing. All three of these persons, the two police officers from the 108th precinct in L.I.C. Queens and the said "John Musto" begin to engage in short conversation.

(18) Officer "John Doe" badge # Unknown at this time, walks back over to where I was standing and then asked me did I have anything else that I wished to add to my story? I said yes, that when the said "John Musto" was in my face accusing me of spitting at him, that his breath reeked of alcohol.

(At trial Mr. Musto admitted to have had been coming from a social event of somekind and that he had had a few social drinks.)

(19) Office "John Doe" then tells me that as far as he can "right" that it appears to him that the said "John Musto" seems to have gotten the worst of the deal.

(6)

(20) This officer: "John Doe" badge #. Unknown at this time then states "that he is placing me under arrest." I then ask this officer "John Doe" "what for?" I again tell him that it was this "John Musta" person who attacked and assaulted me and that I just defended myself against such unprovoked attack and assault and that I wished to have him "John Musta" arrested for such attack & assault.

(21) My words go unanswered, the arresting officer "John Doe" then proceeds to place the handcuffs upon my person and then escorts me down the block and around the corner to the 108th precinct and charges me with assault in the third degree.

(22) I the plaintiff: Monte S. Leach, was then brought to Queens Central Bookings at the Queens criminal court house in Kew Gardens Qns. where I was told that I would be charged with assault in the second degree instead of assault in the third degree.

(23) Later that day, I am arraigned, seen by a judge, bail is set and I am then brought to Rikers Island and held in the custody of the Dept. of Corrections until 5/16/17 when I am found not guilty (after trial) of all charges, stemming from my "False Arrest" on the night of 11/12/15.

⑦

Legal Argument: I Monte S. Leach, the plaintiff in this case, am claiming "False Arrest and Imprisonment" and "Malicious Prosecution" against the defendant: "The City of New York", due to the "unprofessionalism" and "misjudgement" of one of the cities public servants, a police officer from the 108th precinct in Long Island City, Queens, Police Officer "John Doe" badge number unknown at this moment, who was working out of the 108th precinct on the night of 11/10/15 at or at about the time of anywhere between ten and twelve P.M., on such said date 11/12/15.

Forfeighting the said defendants motion to have this said claim dismissed, claiming "Probable Cause", I Monte S. Leach the said plaintiff of this claim, wishes to counteract that claim of the said defendants: "The City of New York" by presenting these facts to your Honorable Courts and Judges:

① There was not an eye witness to disputes my claim that this person "John Musto" attacked and assaulted me first and therefore the aggressor of such said assault.

② There was not any physical evidence that would have disputed my claim neither.

③ Sighting there was not any physical evidence and or eye witness to dispute either of our claims, MINE

⑧

or the said "John Musto's" (That either one of us was the aggressor!) that would leave room for only the fact of believing Mr. "John Musto's" word about what had happened and on wines.

④ Sighting the above facts being "shown & proven" then at that time, also sighting there wasn't any collaborating "Subscribers" (or witnesses) from any second or third party except that of "John Musto's" and that of my own, the only said such "probable cause" would only have been to have had both I myself Monte S. Leach and this "John Musto" person arrested! Not just only myself: Mr. "Monte S. Leach".

⑤ Sighting the fact that the arresting officer "John Doe" is not a Medical Doctor, Professional medic, nurse and or any other qualifying professional of the medical field. (Which I myself happen to be, as I was once)

a qualified professional medic with two ~~qualifying~~ professional medical M.O.S.'s from the United States Army, one the 91 ~~Delta~~ M.O.S. which is the combat field medic M.O.S. and second the is the 91 Delta M.O.S. which the M.A.S.H. unit operating room specialist M.O.S. both I recieved after qualifying and passing two top of the line classes at both of the Medical Army Hospitals / Colleges at "Fort Sam Houston" (Texas) and "West Point Academy" (West Point N.Y.) 1987-1993 respectfully!

(9)

and does not have or hold any degrees or certificates qualifying this particular police officer as a qualified medical professional, practicing or not, therefore disqualifying him from making any decisions or predetermining statements such as: "It seems to him that it appears that this "John Musto" person had gotten the worst of the deal." That would speculate the physical severity of any injuries received by "Mr. Musto" or myself, (sighting that we both had scars and bruises) by just looking at both of us (from a normal eye view point) from head to so called toe.

As it had turned out later, upon a physical that I received at Rikers Island's West Facilities, X-ray Unit I had indeed been injured more than meets the eye because of such said assault and attack upon my physical person, by this "John Musto" character. That injury being a hairline fracture of the right leg though being in a different location than where the surgery was done in the same leg on the torn ACL ligament, therefore out ruling the possibility of such said fracture being associated with such prior surgery. Plus, since the assault and attack upon my person by this person "John Musto" caused me to lose balance and fall to the ground upon my back this incident also reinjury to my upper and lower lumbar area, worsening also my pre-existing injuries throughout those locations of my physical person.

(10)

(6) The arresting officer: "John Doe" badge # Unknown at present, could not have known of these injuries and or have had determined the extent of such injuries, being re-injured, by just looking at me up and down and me being fully dressed from head to so called toe.

(7) Lastly, I would like to state for the "Honorable Courts" and "Judges", that though there is not a prejudice bone in my body. In which at least one of these bones was fractured due to this assault and attack, brought upon my person by this "John Musto" person. I am highly inclined to think as well as state, "the way I feel" is that this arresting Police officer: "John Doe" badge # Unknown at present, based his decision (unprofessional as it may be) and "prejudice", "prejudgements" to arrest this plaintiff, I "Monte S. Leach" instead of this "John Musto" character or at least based on the facts presented at the time, arrest the both of us! Because of the "prejudicial" "predetermination" of the physical facts that both the "John Musto" and the arresting officer "John Doe" badge # unknown at present are of "Caucasian" (Decent) ("white") and I the plaintiff in this case, am of so called "African American" (Decent) ("Black") Thus also making the arresting officers "John Doe" so called decision and judgement call not to have both parties arrested, just the plaintiff in this case; (I Monte S. Leach) "prejudice"

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and of Bad Faith! Therefore illuminating probable
cause" as a motion for the defendants in this case
"The City of New York" to dismiss this case from
being heard (in part or in its entirety) in your
Honorable Courts!

Respectfully:

Monte S. Leach

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Determined Injury: Though Chondromalacia of the right patella was determined on 12/10/15, It is the intention of this claim, to establish the absence of probable cause thru "prejudice" that the arresting officer: "John Doe" badge # (Unknown at this moment!) acted in "bad faith" when deciding, then proceeding to arrest this plaintiff one: "Monte S. Leach and not [REDACTED] utilizing professional's proper judgement, when not arresting both parties at the very least, when determining and sighting the "latter" said facts upon arrest of the again said Plaintiff of this case: I, Monte S. Leach. As this would later on lead up to, on upon my person Monte S. Leach filing this claim of "False Arrest", "False Imprisonment" and "Malicious Prosecution", as established upon by jury and judge in and at end of trial on: [REDACTED] 5/16/17. Therefore causing me such above said injuries a total of 16 months!

Therefore, I Monte S. Leach am seeking as compensation and or relief, for all above said injuries: "False Arrest!", "False Imprisonment!", "Malicious Prosecution!", [REDACTED] with the "Chondromalacia of the right patella!" along with any other pain and sufferings that I had endured, thru such illegal arrest, thruout my entire 16 month ordeal, medically documented or other wise said!

The sum of "Four Million" Dollars!

Respectfully:
Monte S. Leach
Plaintiff!

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

1/13/20

Dated

Monte S. Leach

Plaintiff's Signature

First Name

Monte

Middle Initial

S

Last Name

Leach

Prison Address

390 9th Ave

N.Y. N.Y.

10001

County, City

State

Zip Code

Date on which I am delivering this complaint to prison authorities for mailing: _____

Monte S. Leach
390 9th Ave
N.Y. N.Y. 10001

Federal Court Building
500 Pearl St. N.Y. N.Y. 10007

USMP3
USNI
SDNY



Pro Se
SM

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